		(Original Signature of Member)
114TH CONGRESS 2ND SESSION	H.R.	

To amend section 337 of the Tariff Act of 1930 with respect to requirements for domestic industries, and for other purposes.

## IN THE HOUSE OF REPRESENTATIVES

Mr. Cárdenas introduced th	e following bill;	; which was	referred	to the
Committee on				

## A BILL

To amend section 337 of the Tariff Act of 1930 with respect to requirements for domestic industries, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Trade Protection Not
- 5 Troll Protection Act".
- 6 SEC. 2. PURPOSE.
- 7 The purpose of this Act is to ensure that the re-
- 8 sources of the United States International Trade Commis-

1	sion are focused on protecting genuine domestic indus-
2	tries, to restore confidence with the trading partners of
3	the United States that the Commission will not be a dupli-
4	cative forum for enforcing intellectual property rights
5	when United States district courts are already available,
6	and to safeguard the public health and welfare and the
7	United States economy (including competitive conditions).
8	SEC. 3. UNFAIR PRACTICES IN IMPORT TRADE.
9	(a) In General.—Section 337 of the Tariff Act of
10	1930 (19 U.S.C. 1337) is amended as follows:
11	(1) Subsection (a) is amended—
12	(A) in paragraph (3)—
13	(i) by striking "or" at the end of sub-
14	paragraph (B);
15	(ii) in subparagraph (C), by striking
16	"engineering, research and development, or
17	licensing." and inserting "engineering and
18	research and development; or"; and
19	(iii) by adding after subparagraph (C)
20	the following:
21	"(D) substantial investment in licensing activi-
22	ties that leads to the adoption and development of
23	articles that incorporate the patent, copyright, trade-
24	mark, mask work, or design.":

1	(B) by redesignating paragraph (4) as
2	paragraph (5); and
3	(C) by inserting after paragraph (3) the
4	following:
5	"(4) For purposes of paragraph (3), the complainant
6	may not rely upon activities by its licensees unless the li-
7	cense leads to the adoption and development of articles
8	that incorporate the claimed patent, copyright, trademark,
9	mask work, or design for sale in the United States.".
10	(2) Subsection (b) is amended—
11	(A) in paragraph (1), by inserting after
12	the first sentence the following: "For a com-
13	plaint under oath, a person may be relied upon
14	to qualify as an industry under subsection
15	(a)(2) only if the person joins the complaint
16	under oath, except that nothing in this sentence
17	shall be construed to compel such a person to
18	join the complaint."; and
19	(B) by adding at the end the following:
20	"(4)(A) The Commission shall identify, at the begin-
21	ning of an investigation, whether the investigation pre-
22	sents a dispositive issue appropriate for an expedited fact
23	finding and an abbreviated hearing limited to that issue,
24	and shall direct the assigned administrative law judge to
25	rule on such issue early in the investigation. The Commis-

1	sion, in its notice of instituting the investigation, shall set
2	out specific timeframes for such expedited fact finding and
3	hearing.
4	"(B) If the Commission identifies a domestic industry
5	as the dispositive issue in question, the Commission shall
6	direct the assigned administrative law judge to expedite
7	fact finding in the investigation on the domestic industry
8	requirement, including an early evidentiary hearing, and
9	to issue an initial determination on this matter within 100
10	days after the investigation is instituted.
11	"(C) Any initial determination by the assigned ad-
12	ministrative law judge under subparagraph (A) or (B)
13	shall stay the investigation pending Commission action.".
14	(3) Subsection (c) is amended—
15	(A) by striking the first sentence and in-
16	serting the following: "(1) The Commission
17	shall determine, with respect to each investiga-
18	tion conducted by it under this section, whether
19	or not there is a violation of this section, except
20	that the Commission—
21	"(A) may, by issuing a consent order or on the
22	basis of an agreement between the private parties to
23	the investigation, including an agreement to present
24	the matter for arbitration, terminate any such inves-

1	tigation, in whole or in part, without making such
2	a determination; or
3	"(B) may determine during the course of the
4	investigation that the exclusion of the articles under
5	investigation would not be in the interest of the pub-
6	lic, after considering the nature of the articles con-
7	cerned and the effect of such exclusion upon the
8	public health and welfare, the United States econ-
9	omy (including competitive conditions), the produc-
10	tion of like or directly competitive articles by the
11	complainant and its licensees, United States con-
12	sumers, and any other relevant considerations, and
13	terminate any such investigation, in whole or in
14	part, without making any further determination.";
15	(B) in the second sentence, by striking
16	"Each determination" and inserting the fol-
17	lowing:
18	"(2) Each determination";
19	(C) by inserting after "the Federal Circuit
20	for review in accordance with chapter 7 of title
21	5, United States Code." the following: "In addi-
22	tion, any person adversely affected by a ruling
23	of the Commission under subsection (b)(4) may
24	appeal such ruling, within 60 days after all ad-
25	ministrative remedies are exhausted, to the

1	United States Court of Appeals for the Federal
2	Circuit for review in accordance with chapter 7
3	of title 5, United States Code. In the event that
4	the Commission's ruling is appealed under this
5	subsection and upon motion by the adversely af-
6	fected party, the Commission shall stay all fur-
7	ther proceedings in the investigation until all
8	appeals are final.";
9	(D) by striking "its findings on the public
10	health and welfare, competitive conditions in
11	the United States economy," and inserting "its
12	findings on the public health and welfare, the
13	United States economy (including competitive
14	conditions),"; and
15	(E) by inserting "by the complainant and
16	its licensees" after "the production of like or di-
17	rectly competitive articles".
18	(4) Subsection (d)(1) is amended by striking
19	the first sentence and inserting the following: "If the
20	Commission determines, as a result of an investiga-
21	tion under this section, that there is a violation of
22	this section and that exclusion of the articles con-
23	cerned would be in the interest of the public, after
24	considering the nature of the articles concerned and
25	the effect of such exclusion upon the public health

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and welfare, the United States economy (including competitive conditions), the production of like or directly competitive articles by the complainant and its licensees, United States consumers, and any other relevant considerations, the Commission shall direct that the articles concerned that are imported by any person violating the provision of this section be excluded from entry into the United States.".

(5) Subsection (e)(1) is amended by striking the first sentence and inserting the following: "If, during the course of an investigation under this section, the Commission determines that there is reason to believe that there is a violation of this section and that exclusion of the articles concerned would be in the interest of the public, the Commission may direct that the articles concerned that are imported by any person with respect to whom there is reason to believe that such person is violating this section be excluded from entry into the United States, after considering the nature of the articles concerned and the effect of such exclusion upon the public health and welfare, the United States economy (including competitive conditions), the production of like or directly competitive articles by the complainant and its

1 licensees, United States consumers, and any other 2 relevant considerations.". 3 (6) Subsection (f)(1) is amended by striking the 4 first sentence and inserting the following: "In addi-5 tion to, or in lieu of, taking action under subsection 6 (d) or (e), the Commission may issue and cause to 7 be served on any person violating this section, or be-8 lieved to be violating this section, as the case may 9 be, an order directing such person to cease and de-10 sist from engaging in the unfair methods or acts in-11 volved, after considering the nature of the articles 12 concerned and the effect of such exclusion upon the 13 public health and welfare, the United States econ-14 omy (including competitive conditions), the produc-15 tion of like or directly competitive articles by the 16 complainant and its licensee, United States con-17 sumers, and any other relevant considerations.". 18 (7) Subsection (g)(1) is amended by amending 19 the matter following subparagraph (E) to read as 20 follows: 21 "the Commission shall presume the facts alleged in the 22 complaint to be true and shall, upon request, issue an ex-23 clusion from entry or a cease and desist order, or both, limited to that person, after considering the nature of the articles concerned and the effect of such exclusion upon

- 1 the public health and welfare, the United States economy
- 2 (including competitive conditions), the production of like
- 3 or directly competitive articles by the complainant and its
- 4 licensees, United States consumers, and any other relevant
- 5 considerations.".
- 6 (b) Effective Date.—The amendments made by
- 7 subsection (a) shall apply to complaints filed under section
- 8 337 of the Tariff Act of 1930 on or after the date of the
- 9 enactment of this Act.